

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35930]

Texas New Mexico Railway, L.L.C.—Acquisition and Operation Exemption—Austin & Northwestern Railroad Company, Inc.

Texas New Mexico Railway, L.L.C. (TNMR)¹, a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Austin & Northwestern Railway Company, Inc. (ANR), and to operate, approximately 104.191 miles of rail line between milepost 0.079 at Monahans, Tex., and milepost 104.27 at Lovington, N.M.

This transaction is related to a concurrently filed verified notice of exemption in Watco Holdings, Inc.—Continuance in Control Exemption—Texas New Mexico Railway, Docket No. FD 35931, wherein Watco Holdings, Inc., seeks Board approval under 49 C.F.R. § 1180.2(d)(2) to continue in control of TNMR, upon TNMR's becoming a Class III rail carrier.

TNMR states that the agreement between TNMR and ANR does not contain any provision that prohibits TNMR from interchanging traffic with a third party or limits TNMR's ability to interchange with a third party.

The transaction is expected to be consummated on or after the effective date of the exemption.

¹ TNMR is a new, wholly owned, subsidiary of Watco Holdings, Inc.

TNMR has certified that this transaction will not result in TNMR's becoming a Class II or Class I rail carrier. Because TNMR's projected annual revenues will exceed \$5 million, TNMR certified to the Board on May 19, 2015, that it had complied with the requirements of 49 C.F.R. § 1150.32(e) on May 18, 2015, by providing notice to employees on the affected line.² Under 49 C.F.R. § 1150.32(e), this exemption cannot become effective until 60 days after the requirements of that section have been satisfied (here, July 18, 2015).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 10, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35930 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 655 Fifteenth Street, N.W., Suite 225, Washington, DC 20005.

² In its May 19 letter to the Board, TNMR stated that there are no union employees at ANR.

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Decided: June 1, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.